UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.4/2001/103
24 January 2001

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-seventh session
Item 19 of the provisional agenda

ADVISORY SERVICE AND TECHNICAL COOPERATION IN THE FIELD OF HUMAN RIGHTS

Situation of human rights in Cambodia

Report of the Special Representative of the Secretary-General for Human Rights in Cambodia, Mr. Peter Leuprecht, submitted in accordance with resolution 2000/79

GE.01-10508 (E)

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Executive summary

The present report is submitted in accordance with resolution 2000/79 of the Commission on Human Rights. The Secretary-General appointed Peter Leuprecht (Austria) as his new Special Representative for human rights in Cambodia on 18 August 2000. As set out in Commission resolution 1993/6, the tasks of the Special Representative are: (a) to maintain contact with the Government and people of Cambodia; (b) to guide and coordinate the United Nations human rights presence in Cambodia; and (c) to assist the Government in the promotion and protection of human rights.

This is the Special Representative's first report to the Commission on Human Rights. He has not yet reported to the General Assembly owing to lack of time for a well-prepared mission prior to its fifty-fifth session. In December 2000, the General Assembly adopted resolution 55/95 on the situation of human rights in Cambodia, in which it requested the Special Representative, in collaboration with the office in Cambodia of the United Nations High Commissioner for Human Rights, to continue the work of his predecessors and to maintain contact with the Government and people of Cambodia. The General Assembly requested the Secretary-General, through his Special Representative for human rights in Cambodia, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia.

The Special Representative's declared objective is to contribute in a spirit of solidarity to the building in Cambodia of a peaceful and democratic society based on the rule of law and respect for human rights. During his first visit to the country, the Special Representative emphasized his intention to adopt an approach of respect for, and sympathy with, the Cambodian people as well as to listen to, and engage in a frank and fruitful dialogue with, all sectors of Cambodian society. He also emphasized his global and comprehensive approach to human rights issues; he thus intends to address issues of civil and political rights as well as economic, social and cultural rights. He intends therefore to pay particular attention to poverty as a human rights issue. The Special Representative stresses the responsibility of the Cambodian governmental authorities and society at large, as well as that of the international community, for the realization of all human rights in the country. He sees his role as part of a collective effort and intends to cooperate closely with international organizations, institutions, and agencies, governments, the Association of South-East Asian Nations, the European Union, international and national NGOs, and all sectors of Cambodian society.

The Special Representative intends to build on his predecessors' experience and efforts. In doing so, and as part of his method of work, the Special Representative intends to continue carrying out periodic visits to the country, including to the provinces, and to address fundamental human rights concerns as well as individual cases of human rights violations brought to his attention. He intends to maintain close contact and to consult with the authorities and the civil society of Cambodia. He will also interact with the donor community and related bodies of the United Nations human rights machinery, such as treaty monitoring bodies, thematic rapporteurs and working groups of the Commission on Human Rights, as well as with other organs and bodies of the United Nations in New York, Vienna, Geneva and Cambodia.

Before undertaking a first visit to Cambodia, the Special Representative carried out preparatory missions to New York, Vienna, Brussels and Geneva. Of particular importance were his meetings with the United Nations High Commissioner for Human Rights in Geneva as well as at the United Nations Secretariat in New York. The Special Representative also had consultations with representatives of various Governments and diplomatic missions in New York, Geneva and Vienna, as well as with representatives of the European Union in Brussels.

The Special Representative carried out his first visit to Cambodia from 26 November to 2 December 2000. The visit focused on the following five main themes: eradication of violence; rule of law; domestic implementation of international human rights treaties to which Cambodia is a party; poverty issues and economic and social rights; and the situation of women and children. Other issues discussed included the special tribunal to try those responsible for crimes committed during the Democratic Kampuchea regime, the upcoming communal elections, and corruption and impunity.

The pending signature of a memorandum of understanding between the Royal Government of Cambodia and the Office of the High Commissioner for Human Rights as well as security concerns of staff of the Cambodia office, in particular the security of those performing official monitoring and protection work, were also addressed by the Special Representative.

The Special Representative's first visit to Cambodia was intense and substantial. It afforded him a general overview of the main human rights issues in the country.

The Special Representative informed the Royal Government of Cambodia of his intention to carry out a second visit to the country during February or March 2001, before the fifty-seventh session of the Commission on Human Rights.

In section III of his report, the Special Representative raises human rights issues of concern, including on: (a) eradication of violence; (b) rule of law, the judicial system and conditions of detention; (c) domestic implementation of international human rights instruments; (d) poverty and issues concerning economic and social rights; (e) the situation of women; (f) the situation of children; (g) the special tribunal to try those responsible for crimes committed during the Democratic Kampuchea regime; (h) communal elections; (i) rights of minority groups; and (j) the rights of human rights defenders. Section IV concludes the report with the recommendations of the Special Representative.

Introduction

1. The present report is submitted in accordance with Commission resolution 2000/79. The Secretary-General appointed Peter Leuprecht (Austria) as his new Special Representative for human rights in Cambodia on 18 August 2000. As set out in Commission resolution 1993/6, the tasks of the Special Representative are: (a) to maintain contact with the Government and people of Cambodia; (b) to guide and coordinate the United Nations human rights presence in Cambodia; and (c) to assist the Government in the promotion and protection of human rights.

2. This is the Special Representative's first report to the Commission on Human Rights. He has not yet reported to the General Assembly owing to lack of time for a well-prepared mission prior to its fifty-fifth session. In December 2000, the General Assembly adopted resolution 55/95 on the situation of human rights in Cambodia. In its resolution, the Assembly requested the Special Representative, in collaboration with the Office of the United Nations High Commissioner for Human Rights, to continue the work of his predecessors, through evaluation of the extent to which the recommendations in his forthcoming reports, and those contained in the reports of his predecessors, are followed up and implemented, and to maintain contact with the Government and people of Cambodia.

3. In its resolution, the Assembly also requested the Secretary-General, through his Special Representative for human rights in Cambodia, to assist the Government of Cambodia in ensuring the protection of the human rights of all people in Cambodia. It also requested the Government of Cambodia and the office in Cambodia of the United Nations High Commissioner for Human Rights to exchange the memorandum of understanding for the extension of the mandate of the office after March 2000, and encouraged the Government of Cambodia to continue to cooperate with the office.

I. METHODOLOGY AND APPROACH

4. The Special Representative's declared objective is to contribute in a spirit of solidarity to the building in Cambodia of a peaceful and democratic society based on the rule of law and respect for human rights. The way in which he approaches his mission can be summarized in five points:

(a) He has profound respect for, and sincere sympathy with, the Cambodian people;

(b) He intends to listen to, and to engage in a frank and fruitful dialogue with, all sectors of Cambodian society;

(c) His approach to human rights is global and comprehensive, thus including civil, political, economic, social and cultural rights; he intends to pay serious attention to poverty as a fundamental human rights issue;

(d) He emphasizes the responsibility not only of the Cambodian society and authorities, but also of the international community for the realization of human rights in the country;

(e) He sees his role as part of a collective effort; he therefore intends to cooperate closely with international organizations, institutions and agencies, Governments, the Association of South-East Asian Nations (ASEAN), the European Union, international and national non-governmental organizations and all sectors of Cambodian society.

5. The Special Representative would hereby like to pay tribute to his predecessors, Thomas Hammarberg and Michael Kirby, for their commitment to the promotion and protection of human rights in Cambodia. The Special Representative intends to build on his predecessors' experience and efforts. He will continue with the practice of carrying out periodic visits to the country, including to the provinces, and addressing fundamental human rights issues as well as individual cases of human rights violations brought to his attention. He intends to maintain close contact and to consult with the authorities and the civil society of Cambodia. He will also interact with the donor community and related bodies of the United Nations human rights machinery, such as treaty monitoring bodies, thematic rapporteurs and working groups of the Commission on Human Rights, as well as with other organs and bodies of the United Nations in New York, Vienna, Geneva and Cambodia.

II. THE SPECIAL REPRESENTATIVE'S ACTIVITIES AND SOURCES

A. Preparatory missions to New York, Vienna, Brussels and Geneva

6. Before his first visit to Cambodia, the Special Representative carried out preparatory missions to New York, Vienna, Brussels and Geneva, in October and November 2000. Of particular importance were his meetings with the United Nations High Commissioner for Human Rights in Geneva as well as at the Secretariat. He also met with representatives of various Governments and diplomatic missions in New York, Geneva and Vienna, as well as with representatives of the European Union in Brussels.

B. First visit to Cambodia, 26 November to 2 December 2000

7. The Special Representative carried out his first visit to Cambodia from 26 November to 2 December 2000. This visit focused on five main themes, namely:

Eradication of violence;

Rule of law;

Domestic implementation of international human rights treaties to which Cambodia is a party;

Poverty issues and economic and social rights; and

Situation of women and children.

8. The Special Representative also discussed the following issues: the draft law to establish a special tribunal to try those responsible for serious crimes committed during the Democratic Kampuchea regime; the upcoming communal elections; corruption and impunity; the pending

signature of a memorandum of understanding between the Royal Government of Cambodia and the office in Cambodia of the High Commissioner for Human Rights; as well as security concerns of staff of the Cambodia office, in particular the security of those performing official monitoring and protection work.

9. The Special Representative commends the Royal Government of Cambodia on its openness and spirit of cooperation throughout his visit.

10. The Special Representative's first visit to Cambodia was intense and substantial. It afforded him a general overview of the main human rights issues in the country. The Special Representative had an audience with the King of Cambodia, His Majesty King Norodom Sihanouk. He also met with several senior government representatives, including the Prime Minister, the Minister for Foreign Affairs and International Cooperation, the Minister of Finance, the Minister of Women's and Veteran's Affairs, the Co-Minister of the Interior, the Chairman and members of the governmental Cambodian Human Rights Committee, the President of the Senate, the President of the National Assembly, and the President and members of the Senate Commission for Human Rights and Reception of Complaints. Moreover, the Special Representative met with the members of the Constitutional Council and the General Prosecutor of the Court of Appeal.

11. The Special Representative also consulted with leaders of different political parties, various national and international NGO representatives, representatives of United Nations agencies, members of the donor and diplomatic communities, and representatives of the World Bank, which currently chairs the meetings of the Consultative Group and the Contact Group on Good Governance. These meetings were relevant not only as an additional means of gathering information but also in view of the Special Representative's interest in further encouraging them to work towards advancing human rights for all in Cambodia.

12. At his request, the Special Representative visited two detention centres in Phnom Penh: the Phnom Penh prison formerly called PJ (for Police judiciaire) prison and the Tuol Sleng military detention centre. In both centres, the Special Representative was permitted access to all detainees. Notably, the Special Representative had a non-confidential brief interview with former Khmer Rouge officials Ta Mok and Deuch, both awaiting trial in the military detention centre. This visit is remarkable as very few people had until then been permitted access to them. Both Ta Mok and Deuch told the Special Representative that they were in good health and properly treated by the authorities. In recognition of the painful history suffered by the people of Cambodia, the Special Representative visited the Tuol Sleng museum in Phnom Penh (S-21 prison between 1975 and 1979).

13. In his audience with His Majesty the King, the Special Representative was assured of His Majesty's continuing support for the Cambodia office. The King expressed his hope that the office would continue its excellent work for years to come. With regard to the tribunal to try the crimes of the Khmer Rouge, His Majesty reiterated that if and when the trial is held he will testify.

14. At the meeting with the Prime Minister, the Prime Minister expressed his views on economic issues and the commitment of his Government to the reduction of poverty. The

Prime Minister provided the Special Representative with an update on some governmental reform programmes with respect to the armed forces, commune administration, the legal system, the judiciary and the economy. The Special Representative expressed his appreciation for the global approach that the Prime Minister advocates with respect to human rights and urged him to strengthen efforts to reduce the gap between rich and poor in the country.

15. The Special Representative met with the Minister for Foreign Affairs and International Cooperation on two separate occasions. At their first meeting, early on in the visit, the Special Representative stated his intended approach in fulfilling his mandate and the focus of his first visit to the country. At their second meeting, towards the end of the visit, the Special Representative discussed with the Minister the various areas in which he intended to make recommendations in his report to the Commission on Human Rights.

16. At both meetings, the Special Representative also raised the issue of the outstanding extension of the memorandum of understanding between the Royal Government of Cambodia and the office in Cambodia of the High Commissioner for Human Rights. The previous memorandum expired on 28 February 2000 and negotiations for its extension have been taking place since the third quarter of 1999. Following the first meeting with the Special Representative, the Minister informed him by letter that the Royal Government had no objections to the MoU provisions relating to the privileges and immunities of United Nations national staff, which had been the subject of discussion for several months. In the same letter, the Minister indicated that the Royal Government objected to the provisions concerning functional immunity of individuals participating in United Nations seminars, workshops and other events. During the second meeting, the Special Representative presented the legal grounds of the provision to which the Royal Government objects, and explained that the provisions concerned are standard clauses contained in all agreements between the United Nations and host countries for the organization of conferences, seminars and similar activities. It was agreed that the issue would continue to be discussed by correspondence. Following his return to Canada, the Special Representative wrote to the Minister outlining in greater detail the legal aspects of the question and asking the Royal Government to reconsider its position in order to conclude the negotiations on the MoU in the near future.

17. At the end of his first visit, the Special Representative gave a final briefing to the diplomatic community. He also held a press conference for the national and international press.

C. Second visit to Cambodia, February or March 2001

18. The Special Representative informed the Royal Government of Cambodia of his intention to visit the country in February or March 2001, before the fifty-seventh session of the Commission on Human Rights. This second visit will allow the Special Representative to obtain information on issues raised during his first visit in order to update this report for consideration by the Commission on Human Rights at its next session, to be held from 19 March to 27 April 2001.

III. MAJOR DEVELOPMENTS AND HUMAN RIGHTS ISSUES OF CONCERN

19. The current Government has been in place since November 1998. The Government is a coalition of the Cambodian People's Party, which exercises most control over the main State organs, and the United National Front for an Independent, Neutral, Peaceful and Cooperative Cambodia (FUNCINPEC). After the destruction of State institutions during three decades of war and conflict, the country has gradually taken steps towards the establishment of new State institutions and the development of a legal framework. One of the main challenges today is the real application of the law and the effective functioning of the established institutions. The training of human resources continues to be of great importance.

20. With the support of the international community, the Government has initiated government policies and programmes in important areas such as good governance, poverty reduction, socio-economic development, legal and judicial reform, children, women, trafficking and sexual exploitation of children, and HIV/AIDS.

21. On 30 April 1999, Cambodia became the tenth member of ASEAN. Cambodia's membership in ASEAN and the ASEAN Free Trade Area (AFTA) is likely to have significant political and economic implications for the country.

22. Before addressing specific issues, the Special Representative would like to express his conviction that four fundamental evils continue to affect Cambodian society and to hamper the enjoyment of human rights by all the peoples of Cambodia: violence, a still alarming degree of "lawlessness" (as opposed to rule of law), poverty, and corruption. The Special Representative has reason to believe that Cambodian authorities are aware of these evils and are willing to address them.

A. Eradication of violence

23. Violence pervades many facets of life. The Special Representative notes the unacceptably high rates of domestic violence, political violence, possession of small arms, trafficking of women and children, land disputes, violence against minorities, etc. Although eradication of violence is a long-term goal, concrete actions towards this goal must be taken in the short term. The attainment of this goal will require concerted efforts on the part of governmental authorities as well as the society in general. Cambodia's recent history has been marked by extreme violence and it is essential that the cycle of violence be broken.

1. Political violence

24. In view of the upcoming communal elections, political violence represents a serious danger. The Special Representative expresses deep concern at the prospect of political intimidation and politically motivated violence against those desirous of partaking in political activity. The Special Representative asked the Prime Minister that he issue a clear and firm message condemning all acts of political violence and intimidation. This request was met with some scepticism on the part of the Prime Minister who expressed the view that political violence does not occur in Cambodia.

25. Non-governmental human rights organizations as well as the Cambodia office reported instances of political violence to the Special Representative. The Cambodia office has brought several cases to the attention of relevant government authorities, both at the central and provincial levels.

26. Several such incidents of political violence or violence in which political actors were the target were reported to the Cambodia office during the last six months. On 3 June 2000, in Kampot, a known FUNCINPEC candidate for commune chief and his wife were murdered. The investigation conducted by the Cambodia office and local human rights NGOs seemed to indicate that the killings were politically motivated and that the present commune chief was involved. The Ministry of the Interior informed the Cambodia office that a government committee to investigate the incident had been established. The committee later reached the conclusion that the commune chief was responsible, but claimed that the motive for the killing was personal. The Special Representative welcomes the arrest of the commune chief on 17 August 2000.

27. The Special Representative also welcomes the arrest of three suspects in the killing on 17 August 2000 of a Sam Rainsy Party member in Kompong Cham province. In another case, a Sam Rainsy Party member was killed on 22 August 2000 in Prey Veng province. While a preliminary investigation by a local human rights organization led to evidence of a personal motive for the killing, the Cambodia office is not yet in a position to confirm or to exclude a possible concurrent political motive.

28. In Phnom Penh on 29 September 2000, a person in the uniform of a military officer threatened at gunpoint a member of Parliament of the Sam Rainsy Party. Later, on the site of the incident, similar threats were also directed at staff of the Cambodia office. On 6 November 2000, the Cambodia office was informed of a complaint filed at the Phnom Penh Municipal Court by the officer, a deputy officer and rank and file members of the Investigation and Intelligence Unit of the Royal Cambodia Armed Forces (RCAF) against the member of Parliament for defamation of the Unit. In a reply dated 7 December 2000 to a request to the Minister of National Defence by the Cambodia office to investigate the allegations, the Director-General of the General Department of Military Services stated that the officer concerned had not been on active duty in the military since 1998 and that a letter of complaint to the Prosecutor attached to the Military Court, dated 5 October 2000, was filed requesting that he be arrested and prosecuted, in accordance with the law. While the Cambodia office appreciates the explanation provided for the complaint filed with the Municipal Court, no information was provided regarding the results of the investigation. In particular, no reason was given as to why the former military officer was armed and in uniform at the time the incident took place. At the same time, it is important to note that if the officer is no longer a member of the RCAF, the Military Court would not have jurisdiction in the case.

29. In the early hours of 24 November 2000, an outbreak of violence occurred in the streets of Phnom Penh when between 40 and 50 heavily armed men launched assaults around the city. Security forces arrested more than 200 people suspected of anti-Government activities or believed to have connections with the Cambodian Freedom Fighters, the group that has publicly

acknowledged having organized and conducted the assaults. The majority of those arrested were apprehended without issuance of proper warrants of arrest. Most of those arrested were not brought before a court within the legally prescribed period of 48 hours.

30. The number of deaths related to the incident remains unconfirmed though seven deaths were initially reported by government authorities following the attacks. As the incident coincided with the arrival of the Special Representative in the country, he immediately called for a serious inquiry, conducted in accordance with the principles of due process, rule of law and fair trial. This request was further emphasized by the Special Representative during several of his interviews with relevant government authorities, including with the Prime Minister himself. The Cambodia office appreciated having access to some of those arrested. It continues to monitor closely the cases of those arrested and the further arrests being made, including at the provincial level. The Special Representative was puzzled by statements made to him by detainees in the military detention centre according to which they had been arrested on 17 November 2000 in connection with the events of 24 November 2000. He expresses the firm hope that these events will not precipitate a new era of violence in Cambodia.

2. Torture

31. The Special Representative received information about the occurrence of torture, particularly in police custody. Statistics presented by a non-governmental human rights organization show that from January to September 2000, out of 2,228 prisoners interviewed, 19 per cent claimed to have been tortured in police custody and 2 per cent claimed to have been abused in prison. Often victims are too afraid to file complaints and in some of those cases where victims have submitted complaints to the court, they subsequently suffer further intimidation. On 24 November 2000, the Cambodia office sent a report to the Royal Government of Cambodia detailing 20 cases of reported torture which occurred in two police stations in Battambang province during 1998/99. The Special Representative called for serious investigations of these allegations by the relevant authorities; he expects to be informed of the results of these investigations during his next visit to the country.

32. In view of the increasing number of reports of excessive violence used by police during arrest, systematic gathering of information regarding police violence was initiated by the Cambodia office in September 1999. A report with detailed information on several incidents will be presented by the Cambodia office to the relevant authorities in the near future. Recommendations for corrective actions as well as preventive measures will be part of this report.

3. Mob violence

33. Between January and October 2000, the Cambodia office, in cooperation with non-governmental human rights organizations, gathered information regarding 22 cases of mob violence. As discussed below, there is a general mistrust of the judicial system which is seen as corrupt and favourable to the rich and powerful. Of great concern is the direct or indirect involvement of or inaction by the police in many of the reported cases. In some cases, victims were arrested by police and later killed by mobs.

B. Rule of law, the judicial system and conditions of detention

34. Despite a number of laws existing on paper, a sense of lawlessness prevails owing to the failure to implement these laws, the issue of impunity, and the lack of independence of the judicial system. These issues are reflected in several resolutions of the Commission on Human Rights and the General Assembly.

35. Impunity is one of the fundamental challenges faced by Cambodia. Several NGOs brought to the attention of the Special Representative cases of human rights violations in which government authorities had taken no action. In those cases where action is taken, justice is rarely served.

1. Corruption

36. Corruption in Cambodia is generalized and systemic. There are, of course, no simple solutions. Corruption is both result and cause of all other problems. Corruption cannot be addressed in isolation from other considerations. Nonetheless, it is essential to build a society in which corruption is morally, culturally, as well as legally unacceptable. According to NGOs, corruption is widespread in the judicial system; perpetrators can buy justice, and police and court officials often broker deals between victims and perpetrators while keeping for themselves a share of the compensation.

37. At the request of the Royal Government of Cambodia, the World Bank was called upon to provide assistance for capacity-building in enhancing good governance and combating corruption. The Government recognizes that strengthening governance and combating corruption is an integral element of the promotion of sustainable development.

2. Independence of the judiciary

38. The lack of independence of the judiciary is a serious obstacle to establishing the rule of law. During the Special Representative's first visit to the country, he raised the issue with various members of the Government and the judiciary, as well as with representatives of the civil society. The General Prosecutor of the Court of Appeal, who spoke with remarkable frankness, painted a bleak picture of the present state of the judiciary. Despite the constitutional guarantees of separation of powers and independence of the judiciary, judicial independence is often undermined in practice. It is threatened mainly by direct and indirect interference by the executive and powerful private entities.

39. The absence of proper training and human rights education of judges and prosecutors contributes to their lack of independence. Moreover, legal gaps and the mixed nature of the legal system tend to create some confusion in the application of relevant laws and procedures. Another important factor is the unrealistically low salaries of judges and court officials. Unable to make a living on such salaries, judges and court officials are all the more susceptible to the lure of corruption. The independence of the judiciary is further hampered by the affiliation of judges and prosecutors with political parties and interference in judicial matters through circulars and orders of the executive. Such lack of independence erodes the rule of law as well as the people's trust in the legal system. The Supreme Council of Magistracy was created to ensure the

independence of the judiciary and has direct responsibility for taking disciplinary actions against judges and prosecutors through the Disciplinary Committees. The Special Representative stresses the need to ensure the independence and authority of the Supreme Council of Magistracy, which should take action against those judges and prosecutors who do not perform their duties in accordance with the law.

40. The Prime Minister briefed the Special Representative about the Government's plans for legal and judicial reform. A draft Master Plan of Action for Judicial Reform, dated September 2000, recognizes the urgent need for immediate and decisive reform of Cambodia's judicial system and law-making procedures. It states that "a complete, predictable and transparent legal framework and an independent, responsible and capable judiciary are the foundations of the rule of law and underpin the development of democracy, a market economy and social justice". The goals of this reform are said to include the restoration of the confidence of the Cambodian people in the legal and judicial system by promoting, protecting and enforcing economic and civil rights and obligations. The Special Representative commends the Government of Cambodia for its willingness to bring such issues to the forefront of reform and to proceed in close coordination and consultation with all actors involved, including NGOs and the donor community. The Special Representative is further encouraged by the project's focus on the following areas requiring reform: (a) the law-making process, including the publication of laws; (b) education and training of legal experts; and (c) the judicial process. In achieving these reforms, the Special Representative would like to see further attention paid first and foremost to the independence of the judiciary and to restoring the confidence of the Cambodian people in the legal and judicial system.

41. The Special Representative was informed of the findings of a preliminary assessment regarding the justice system in the former Khmer Rouge area of Pailin municipality conducted by the Cambodia office. In order to obtain a more comprehensive understanding of the justice system in the Pailin, the Cambodia office, during the second half of 2000, conducted several interviews in Phnom Penh and Battambang and carried out several visits to Pailin. The findings of the assessment as well as recommendations for action will be addressed by the Cambodia office to the relevant authorities in the coming months.

3. Legislative reform

42. In terms of legislation, the Special Representative notes that with the assistance of foreign legal experts, the Ministry of Justice completed the drafting of the Code of Criminal Procedure and the Penal Code to be adopted by Parliament. A draft land law, a new Civil Code and a Code of Civil Procedure are currently also in preparation. The Special Representative calls on Parliament to ensure that all legislation is in accordance with international human rights standards.

4. Conditions of detention

43. Conditions of detention in Cambodian prisons leave much to be desired. In spite of the country's general financial limitations, some important efforts in the penitentiary system have been made. The Special Representative encourages the Government to continue in this direction.

He notes the important aid offered by the Government of Australia to the Ministry of the Interior as well as the valuable assistance to many of the prisons directly provided by several NGOs, including at the provincial level.

44. The Special Representative notes a continuing problem of mixing different categories of prisoners, in contravention of the United Nations Standard Minimum Rules for the Treatment of Prisoners. In most cases, pre-trial detainees are not separated from convicted prisoners and minors are not kept separate from adults. Furthermore, prisoners convicted of petty crimes are imprisoned with those convicted of serious crimes. Most prisons do not have a distinct compound for women prisoners and very often, women are detained in the same building as men but in separate blocks; in other cases women are detained in a cell block in a separate building but adjacent to the men's building.

45. Cambodian prisons are seriously overcrowded. The total prison population has been growing rapidly over the last few years, yet little is being done to accommodate this increase. Prisoners are being transferred from some of the most crowded prisons to the new T3 prison on the outskirts of Phnom Penh. Although larger than the old T3 prison, it is not large enough to permit sufficient transfers from all overcrowded prisons. Continuous monitoring of the prison conditions by the Cambodia office as well as by several NGOs has also provided the Special Representative with information concerning the lack of appropriate medical services and insufficient medicine and medical facilities and equipment in Cambodian prisons. Prisoners' physical health is often compromised by lack of sufficient food and water, poor personal hygiene and lack of exercise and fresh air. It was reported that 1,000 riel per prisoner per day (about US$ .30) is budgeted for food. However, the whole amount, already very low, is rarely spent in its entirety for providing food. Prison authorities use the funds for other purposes such as for transportation of detainees to courts.

46. During his visit to the PJ prison in Phnom Penh, the Special Representative noted that the state of the building does not permit proper ventilation and contributes to the poor hygienic and environmental health conditions in the prison. He was also struck by the total lack of privacy experienced by prisoners. Moreover, there do not seem to be any educational or reintegration programmes in the prison system in general. The need for education of young prisoners is particularly urgent.

47. The Special Representative also received information about shackles being used in some prisons. In Kompong Som, the prison director ordered leg shackles to be used on one prisoner for 37 days; security in the prison was given as the justification for this measure. Security was also the reason given for the use of shackles on nine prisoners for almost a month in Kompong Thom prison. Most recently, staff of the Cambodia office reported that one prisoner in Kompong Cham Provincial Prison who was receiving medical treatment while in custody at the Provincial Hospital in Kompong Cham was obliged by the prison guards to wear shackles 24 hours a day. Following an intervention by the Cambodia office at the central level, the Prison Department of the Ministry of the Interior promptly ordered the prison guards to remove the shackles from that prisoner. It is noted that the use of shackles is a violation of Cambodian law and is not in accordance with international human rights norms.

48. Another problem reported to the Special Representative is corruption in Cambodian prisons. Payment is very often required for illegal and legal release, for family visits, medical treatment, and even for water. It is alleged that part of the food brought by family members to the inmates is often taken by guards. The application of disciplinary measures not in accordance with the prison procedures is also of concern to the Special Representative.

49. Excessive pre-trial detention and the lack of a juvenile justice system are matters of serious concern. According to monitoring reports of 20 prisons by a local NGO, at the end of September 2000, 221 adult prisoners were held in pre-trial detention exceeding six months and 26 minors were held for periods exceeding two months. At least six of the adults had been kept in pre-trial detention for more than one year. It is fundamentally important that the legal limitations on pre-trial detention be respected.

5. Re-arrests

50. The Special Representative was updated on another issue of great concern: illegal arrest and detention with implications for the independence of the judiciary. On 3 December 1999, the Prime Minister issued Instruction 167 ordering the armed forces nationwide to re-arrest persons suspected of armed robbery, kidnapping and drug trafficking who had previously been released by Cambodian courts because charges had been dropped while they were free on bail or before they had served their sentences. The Prime Minister's instruction was prompted by allegations of an increase of such crimes and irregularities in the post-arrest process. Shortly after Instruction 167 was issued, the Minister of Justice suspended a judge and a prosecutor from the Phnom Penh Municipal Court. The Instruction also called for the establishment of a working group at the Ministry of Justice to investigate the alleged irregularities in the courts. The Special Representative acknowledges the existence of problems in the judicial system; however, any measures taken to address such problems must be in accordance with the law. Charges of bribery should be filed where appropriate and the Supreme Council of Magistracy, the body overseeing the functioning of the judiciary, should adopt measures against judges and prosecutors found guilty.

51. As of the end of November 2000, the Cambodia office had accounted for 37 re-arrested persons remaining in custody in a Phnom Penh prison and at Correctional Centres 1 and 2. All the others, including those re-arrested in the provinces, had been released. Some of the re-arrested persons were tried again for the same crime and were either convicted or released. Those convicted were released after serving their sentence. The 37 people, who had been in custody for almost one year, had neither been charged nor tried. This is a violation of the 1992 United Nations Transitional Administration in Cambodia (UNTAC) Criminal Code, still in force, which limits the period of pre-trial detention to a maximum of six months.

52. The Special Representative discussed the arrests with the Constitutional Council and also noted that on 8 November 2000 the Minister of Justice addressed a memorandum to the Prime Minister, proposing to group the persons who remained in custody into three categories: a first group of 5 persons comprising those who had been released on bail, whom the court would order to return to custody to await trial; a second group of 24 persons who should be released

immediately by the court; and a third group of 8 comprising those against whom evidence of new crimes had been found. A new case file would be opened for those in the third group, and a trial would be held related to the new crimes.

53. Subsequently, on 22 November 2000, the Minister of Justice addressed a memorandum to the President of the Phnom Penh Municipal Court and the Prosecutor attached to the Phnom Penh Municipal Court, informing them that the Prime Minister had given his approval to the actions recommended and instructing them to issue release orders for 24 persons. While the Special Representative welcomes efforts to address the problem of re-arrests, none of the measures proposed can rectify the unconstitutionality of Instruction 167 and the subsequent illegal arrests and detention that have occurred since December 1999. Concerns regarding the re-arrest order and further developments were also brought to the attention of the Special Rapporteur on the independence of judges and lawyers by the Cambodia office. Respect for the rule of law should not be undermined while addressing the issue of re-arrests.

C. Domestic implementation of international human rights instruments

54. Cambodia is a party to many international human rights treaties. This is an encouraging sign of the country's commitment to human rights. It is essential to ensure the effective implementation of these treaties in domestic law as well as their application by domestic courts. Implementation of international treaties offers an important avenue for the advancement of human rights for all Cambodians.

55. Cambodia must respect its reporting obligations under international human rights treaties. In particular, the Special Representative urges the Royal Government to submit its now completed initial report to the Committee against Torture. The Special Representative also urges the Royal Government to finalize the initial report on the implementation of the Convention on Elimination of All Forms of Discrimination against Women which has been under review by the Inter-Ministerial Committee on the Preparation of Human Rights Reports to the United Nations and the Ministry of Women's and Veterans' Affairs for several months. The Government should also commence work on the initial report on the implementation of the International Covenant on Economic, Social and Cultural Rights. The Cambodia office is providing assistance to the Royal Government in this area, and is ready to continue to do so.

56. Another crucial element in this process is the implementation of recommendations by treaty bodies. The Special Representative commends the efforts of the Cambodian National Council for Children, with the assistance of the Cambodia office and UNICEF, in preparing a workshop to follow-up on the concluding observations of the Committee on the Rights of the Child. The Special Representative encourages the Government to continue to pay close attention to the recommendations of treaty bodies, to regard their implementation as an important means of promoting human rights in the country, and to integrate them in its reform plans.

D. Poverty and issues concerning economic and social rights

1. Poverty

57. The issue of poverty is at the core of the Special Representative's global approach to human rights. Cambodia is one of the world's 20 poorest countries. The reduction of poverty, through national and international investment and assistance and redistribution of wealth, is essential for the attainment of stability, peace and sustainable development. While the Special Representative recognizes that the resources of the Royal Government of Cambodia available for poverty reduction are limited, he nonetheless advocates a more equal distribution of available resources. According to the Cambodia Human Development Report 2000, Cambodia has one of the lowest Human Development Indexes in the region and it is estimated that 38 per cent of the country's households live below the poverty line, of which 40 per cent of them in rural areas. About 35 per cent of Cambodian workers are reported to have multiple jobs or to be engaged in multiple income-earning activities, reflecting low salaries and low levels of productivity in self-employment activities, including agriculture. Farming, fishing and forestry are reported to be the most important occupations in Cambodia, with 71 per cent of male workers aged 15 years and over engaged in one of these sectors. A high percentage of female workers, 79 per cent, also reported these activities as their primary occupations. The 2000 Report, which focused on children and employment, also reflected a significant child labour problem in Cambodia with 42 per cent of children aged 5 to 17 years engaged in some form of work.

58. In spite of some progress in demobilization, a disproportionate part of the national budget is still spent on the military. Further progress with regard to demobilization is of the essence; at the same time, the Special Representative recognizes the need for training and reinsertion of soldiers into other spheres of economic and social life before demobilization can take its full course.

59. Cambodia is heavily dependent on international assistance. External aid accounts for almost 60 per cent of the national budget. At the same time, it must be recognized that many other countries receive considerably more aid per capita than Cambodia. In 1996 (the most recent year for which comparable data are available), Cambodia was only sixty-seventh in a list of 166 countries ranked by the World Bank in order of aid per capita. The Special Representative strongly appeals to the international community to increase its assistance to Cambodia. Human rights concerns should be properly taken into account in all assistance programmes. Strong emphasis should be put on the development of local capacity.

60. The Special Representative was informed of initiatives for poverty reduction within the United Nations Development Assistance Framework (UNDAF) for the period 2001-2005. He intends in further visits to familiarize himself with important coordinated efforts in this regard. In particular, he would like to encourage the close coordination of efforts with the Office of the High Commissioner for Human Rights.

61. Aid from member States of the European Union (EU) and the European Commission represents nearly 30 per cent of the total aid from all donors. The Special Representative notes with satisfaction that poverty reduction is the overriding focus of EU aid interventions which

also aim to support human rights and to consolidate democracy in Cambodia. The Special Representative strongly encourages the EU to intensify its efforts in this direction and to increase its assistance to Cambodia.

2. Education

62. Education in Cambodia correlates closely to the problem of poverty, the social environment and a lack of political will to invest in education, which results in a low national budget for education and low awareness of the importance of education in the community. About half a million of the children aged 6-11 years have no access to education in Cambodia while 50 per cent of those who entered grade 1 either dropped out of school or had to repeat the class. Despite a large increase in school enrolment in recent years, less than 50 per cent of children reach grade 5 and less than 2 per cent graduate from high school. Some of the causes identified include the low quality and commitment of teachers owing to their low salaries and lack of expertise; the need for a child labour force which prevents children from attending school, especially in the case of young girls; the insufficient number of schools and the need to travel great distances to attend them in remote areas of the country. The Special Representative stresses the importance of an increase in the national budget for formal and non-formal education, the availability of free primary education for all children and the creation of more vocational schools leading to desirable job opportunities.

3. Labour rights

63. On labour issues, the Special Representative was informed of progress in Cambodia's labour movement since 1996. Unions are increasingly common and many are organized in federations. The Special Representative notes the fragile but positive development of the three major federations existing today: the Free Trade Union of Workers of the Kingdom of Cambodia, the National Independent Federation Textile Union of Cambodia and the Cambodian Union Federation. This last one is still influenced, to some degree, by the Government.

64. The Special Representative welcomes the creation of an Inter-Ministerial Commission to receive labour complaints and to recommend corrective action to the Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation and the Ministry of Commerce. Also, the Special Representative welcomes the steps being taken to establish a Labour Monitoring Team with the support and assistance of the Government of the United States of America and the International Labour Organization. This team is to monitor labour conditions independently in Cambodia. The Cambodia office has organized, in agreement with the Ministry's Labour Inspection Department, two three-month training programmes on Cambodia's Labour Code and labour rights for government labour inspectors. With the assistance of the Cambodia office, 15 trained government labour inspectors conducted training for managers, trade union representatives and workers in 24 factories in Phnom Penh.

65. During his visit, the Special Representative was made aware of some abuses of labour rights. Management and the Government must respect the provisions of the Labour Code. In February 2000, police officers used excessive force in Phnom Penh to break up two labour demonstrations. Also in February 2000, 51 workers who had been trafficked into Cambodia

from China and Viet Nam, were rescued from a garment factory where they had been held against their will without having been paid. There was a report in April 2000 that a union leader at a garment factory was suspended for his involvement in the labour movement.

66. The complex situation of migrant workers calls for attention. In a case reported to the Cambodia office, an employer withheld salary from a Chinese national employee and confined him to the factory's compound. Later the employer threatened to send the employee back to China. The employee objected and insisted on receiving his full salary before leaving. Some employers confiscate their workers' personal legal documents, thus unduly restricting their freedom of movement. There seems to be a tendency on the part of employers to ignore both international standards and Cambodian laws in their contracting and treatment of employees, arguing that their own national law, in this case Chinese law, should apply to the employment contract.

4. Land grabbing

67. A large number of forced evictions, as well as land disputes and related security threats and intimidation of people, in particular of minority groups, were reported during the year 2000 to the Cambodia office. The Special Representative has been informed of the status of the Immovable Property Bill 2000 currently before the National Assembly, as well as on the work done in this regard by the National Assembly's Commission on Religion, Culture, Education and Tourism as the responsible commission for the preparation of this bill. The Land Law Working Group has made valuable contributions in the drafting of the legal text, as well as in raising major concerns. The Special Representative intends, during his next mission to the country, to visit one or two provinces in which Land Dispute Committees are functioning and to inquire into this important issue in more detail.

E. Situation of women

68. According to the 1998 census, 51.81 per cent of the total population are women and an estimated 74.3 per cent of the total population live in the rural areas. It is estimated that 25.7 per cent of Cambodian households are headed by women. In Cambodia, domestic violence greatly affects women and children who are often dependent on male family members. The perpetrators of domestic violence often go unpunished. The Minister of Women's and Veteran's Affairs is actively involved in promoting draft legislation on domestic violence. This issue should be addressed both by passing this draft bill and by including provisions on domestic violence in the Penal Code.

69. The Special Representative urges the Government to pursue efforts to address the serious problems of trafficking and sexual exploitation of women and children. He stresses the importance of implementing the Five-Year Plan against Sexual Exploitation and Trafficking of Children adopted by the Council of Ministers in April 2000. The Ministry of the Interior should continue its efforts to draft a law against sexual exploitation of children. It will be important to monitor the implementation and impact of the project of the Minister of Women's and Veteran's Affairs on prevention of trafficking and of the project of the Minister of Justice, with the assistance of the Japanese Institute for Legal Development, for the review of legislation combating trafficking and sexual exploitation. Furthermore, the Special Representative has been

informed of an initiative of the Ministry of Social Affairs, Labour, Vocational Training and Youth, in collaboration with UNICEF, for the return and reintegration of children and women trafficked between Cambodia, Thailand and Viet Nam.

70. Given the multiplicity of projects and actors on this issue, effective coordination is essential. Prosecutors and the police should cooperate and courts should punish offenders, whether they are Cambodian or non-Cambodian. Furthermore, it is essential to recognize that trafficked women and children are victims rather than "social evils"; a non-punitive approach should be taken towards them.

71. The Cambodia office and NGOs briefed the Special Representative on several cases of trafficking of women and children in which they had requested the intervention of the relevant authorities for the rescue of victims. While victims were often rescued, protected and given legal assistance, in most cases perpetrators were not apprehended and investigations were not pursued. In some cases investigated by the Cambodia office, the victims were very young girls of Vietnamese origin who had been trafficked into Cambodia. One case of trafficking and alleged sexual exploitation of seven young women from Eastern Europe was reported to the Cambodia office. The Special Representative intends to address this issue in the course of future visits, in cooperation with the relevant government authorities, international agencies and non-governmental organizations working in this area.

F. Situation of children

72. According to the 1998 census, 42.8 per cent of the Cambodian population are children between 0 and 14 years of age. In his meeting with NGOs concerned with children's rights, the Special Representative was made aware of problems directly affecting children, including: poverty; lack of adequate basic health services for children; limited access to education, particularly for girls and in rural areas; sale of children; trafficking and sexual exploitation; irregularities in adoptions; HIV/AIDS; domestic violence; obstacles to birth registration; care of orphans; children in detention and others.

73. Cambodia lacks an efficient birth registration system. While birth registration is officially free of charge, in practice an irregular payment is required. This payment often deters parents from registering their children's birth, which in turn prevents children from having accurate documented proof of their age and proper access to social services. The Special Representative stresses the need for birth registration to protect children from exploitation in trafficking, child labour and the commercial sex trade. The Special Representative was informed of a recently issued subdecree on birth, marriage and death registration. The implementation of this subdecree will require both national and international investment.

74. While child labour in the commercial sex industry is certainly a cause for concern, the Special Representative was informed that, contrary to recent information disseminated at the international level, it is not pervasive in the garment industry. However, NGOs do report that children as young as 14 work in brick and shoe factories, in contravention of the legal minimum age for non-hazardous work in Cambodia of 15 years.

75. The Special Rapporteur on the sale of children, child prostitution and child pornography has urged the Government to address the many allegations of collusion of members of the police and the judiciary with traffickers and brothel owners who are using children in prostitution.

76. The Government is addressing the issue of inter-country adoption through new legislation. The law should be complemented by effective mechanisms to monitor foreign and local adoptions and ensure that adopted children can keep in close contact, if desired, with their families, culture and country of origin. The Special Representative intends to look further into this important issue during a future visit.

77. The Special Representative is concerned by the incidence of excessive pre-trial detention of children. This contravenes domestic law and international human rights norms. Also of concern, as mentioned above, are the conditions of detention. Juveniles, in particular, need appropriate services while in detention in order to ensure the respect of their rights and to facilitate their reintegration into society following the detention period. In conformity with the Convention on the Rights of the Child, to which Cambodia is a party, the establishment of an adequate juvenile justice system is of the utmost importance.

G. Special tribunal to try those responsible for the crimes committed during the Democratic Kampuchea regime

78. The Special Representative sought information regarding the draft legislation to establish a special tribunal to try those responsible for the most serious crimes committed during the Democratic Kampuchea regime. The Prime Minister assured the Special Representative of the Government's will to have the law adopted by Parliament. According to the Prime Minister, this law is second only to the national budget on the Government's list of legislative priorities. At the time of the Special Representative's visit to Cambodia, the draft law, which resulted from negotiations between the United Nations and the Royal Government of Cambodia, was being discussed by a Senior Minister in charge of the Office of the Council of Ministers and by the Legislative Commission of the National Assembly. The President of the National Assembly stated that the law will be adopted before the end of the present session of Parliament, i.e. by the middle of January 2001 at the latest.

79. The Special Representative also insists that the legislation to be adopted by the National Assembly fully correspond with the text agreed upon by the Royal Government of Cambodia and the United Nations.

80. The process leading to a trial should be open and transparent. According to high Cambodian officials, it remains extremely difficult to achieve both justice and peace in the country. They fear that bringing Khmer Rouge leaders to trial might disrupt what they characterize as a fragile peace. For his part, the Special Representative believes that the preconditions for healing and consolidating peace include justice and the discovery of truth.

81. The Special Representative takes this opportunity to welcome the signature by Cambodia of the Rome Statute of the International Criminal Court on 23 October 2000, i.e. before the deadline of 31 December 2000 (the Rome Statute of the International Criminal Court, art. 125).

H. Communal elections

82. The first communal elections since the end of the Khmer Rouge regime in 1979 were planned for 1998, but have been considerably delayed. As of November 2000, the draft laws on commune administration and communal elections had not been adopted by Parliament. In his meetings with various members of the Government, most notably the Prime Minister, the Special Representative was informed that the necessary legislation will be adopted in early 2001 and that elections are now scheduled for the end of 2001 or the beginning of 2002. The Government is encouraged to follow through on this objective. Properly conducted, free and fair communal elections would undoubtedly contribute to the consolidation of democracy in the country. In order to be truly and effectively democratic, this process requires the support of strong and legitimate institutions, most notably genuinely independent election commissions to oversee the election process. These institutions should be established in the near future, in preparation and in support of the new communally based democratic process.

83. The National Assembly recently discussed the allocation of funds for the commune administration and elections during a national budget debate. The number of communes amounts to 1,609, imposing an additional burden to the national budget in order to cover basic support for their functioning.

I. Rights of minority groups

84. In Cambodia, as elsewhere, human rights must be ensured for all, without discrimination. The Special Representative received information about the difficult situation of ethnic Vietnamese living in Cambodia. In some cases, their legal status is unclear. Indeed, ethnic Vietnamese living in Cambodia are vulnerable to harassment by police authorities who question their legal status. They are often victims of discrimination. The Special Representative will seek, in the course of future visits, to meet with representatives of ethnic Vietnamese communities in Cambodia and with organizations assisting them.

85. The Special Representative was informed by the Cambodia office of several recently reported cases of forced evictions, trafficking, sexual exploitation, and refugee and migrant workers involving ethnic Vietnamese in Cambodia. Valuable information was also provided to the Special Representative by the Cambodia office of the United Nations High Commissioner for Refugees. Close cooperation with the Embassy of Viet Nam, relevant Cambodian authorities, and in some cases the International Organization for Migration (IOM) has helped address some of these issues. There are reports of strong criticisms and threats of violence against those assisting ethnic Vietnamese in Cambodia.

86. Some 16 indigenous ethnic minority groups, living mainly in the north-eastern provinces of the country, make up about 1 per cent of Cambodia's total population. In recent years, ethnic minority groups have been victims of discrimination and inadequate consideration of their cultural and traditional beliefs. The Special Representative calls upon the Government to pay particular attention to the needs and practices of these communities in legislation pertaining to natural resources and land ownership. The Special Representative was informed that recently, in the Immovable Property Bill, amendments concerning indigenous rights had been removed from the legislation but were later re-included.

87. The Cambodia office conducted a field visit to Ratanakiri jointly with two non-governmental human rights and legal assistance organizations in early November 2000 to follow-up developments in a case of alleged fraud and forgery of official documents by a military officer and intermediaries acting on his behalf who attempted to buy land from a group of ethnic minorities in Bokeo district. The Cambodia office has received information that the trial of the case will be heard in early 2001. This would be the first land case concerning ethnic minorities to be brought to trial. The Special Representative intends to visit these communities and assess their situation next year.

J. The rights of human rights defenders

88. The Special Representative was informed by the Cambodia office and representatives of several human rights organizations of the situation of human rights workers who very often are victims of intimidation, threats, or direct attacks owing to their work in the promotion and protection of human rights in the country, including at the provincial level. During the current year, high-ranking government officials, including the Prime Minister, made several public statements discrediting and strongly challenging the important work of human rights organizations and human rights workers. As part of his mandate, the Special Representative intends to maintain close contact with the human rights community in Cambodia. The Special Representative calls upon the Government to ensure the protection of all those at risk and to further promote the respect of the human rights of those directly working for the promotion and protection of human rights in the country. During the year 2000, the Cambodia office brought one such incident to the attention of the newly appointed Special Rapporteur on human rights defenders.

89. The Government is encouraged to establish and maintain close cooperation and a constructive relationship with people and organizations participating in national efforts for the establishment of effective and independent national mechanisms for the promotion and protection of human rights. While recognizing the role that the Cambodian Human Rights Committee, as an executive body, may play, the Special Representative is of the view that the conditions for the establishment of an independent national human rights institution in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights, better known as the Paris principles annexed to General Assembly resolution 48/134 of 20 December 1993 have not yet been met. The Special Representative encourages the Government, the legislative body and the civil society to continue discussions on this important issue.

IV. RECOMMENDATIONS

90. The Special Representative appeals to the international community to increase its assistance to Cambodia. Protection and promotion of human rights concerns should be properly taken into account in all assistance programmes.

91. One of the main objectives of human rights is to reduce and prevent human suffering. The peoples of Cambodia have experienced terrible suffering in the country's turbulent recent history. After years of division, policies of hatred and lack of clear direction, there is a need to

build consensus based on some fundamental values such as pluralist democracy, rule of law and respect for all human rights. One important means of realizing this aim is to engage in a frank, constructive and non-adversarial dialogue and cooperation between governmental authorities and civil society, in particular non-governmental human rights organizations.

92. There is an urgent need to build confidence and trust in Cambodian society - trust and confidence among political forces and actors, as well as trust and confidence of the people in public institutions. This is one of the preconditions for the necessary establishment and proper functioning of truly independent institutions. Civic sense and the sense of public service must be restored.

93. The Special Representative advocates the inclusion of human rights concerns in all reform programmes and plans. The Cambodian Human Rights Committee, the Human Rights and Reception of Complaints Committees of the Senate and the National Assembly, as well as human rights NGOs and the international community should play an important role in advocating the mainstreaming of human rights in all governmental plans.

94. In accordance with Cambodia's international human rights commitments and the stated policy of the Government of Cambodia to promote and protect human rights, the competent Cambodian authorities should seriously investigate all allegations of human rights violations brought to their attention by individuals, NGOs, the Cambodia office or the Special Representative who should be kept informed of the results of such investigations.

Eradication of violence

95. The Special Representative recommends that firm action be taken against impunity. Those responsible for human rights violations, acts of corruption, violence, land grabbing and other violations of the law should not remain unpunished but be brought to justice.

96. In the context of the upcoming communal elections, the Special Representative reiterates his call on the Royal Government of Cambodia, particularly to the Prime Minister, to send a clear and firm message condemning all acts of violence and intimidation related to political activity. Moreover, the Special Representative stresses the importance of the establishment of a genuinely independent National Election Committee as the main body overseeing the election process.

Independence of the judiciary

97. The Special Representative commends the Government for its declared willingness to reform the judiciary and recommends that concrete actions be taken to address the problems of impunity, corruption, and the lack of independence of the judiciary. Institutions such as the Supreme Council of Magistracy should be truly independent and allowed to fulfil their legal duties. Judges and prosecutors should be provided with appropriate salaries and training on international human rights norms. The judiciary and the Bar Association should accept and train young lawyers.

Conditions of detention

98. The Special Representative recommends that, with increased assistance from the international community, serious efforts be undertaken to improve conditions of detention. In particular, steps should be taken to solve the problem of overcrowded prisons, improve the state of the buildings and conditions of hygiene, ensure sufficient food rations, increase opportunities for physical exercise, and facilitate access to educational and reinsertion programmes. Juveniles should be separated from adults, and women from men. The Special Representative is particularly concerned about the problem of excessive pre-trial detention and calls for respect of the maximum pre-trial detention periods permitted by law and for access to legal aid for the poor.

Domestic implementation of international human rights instruments

99. The Special Representative notes that Cambodia is a party to many international human rights treaties and calls for the application and enforcement of these treaties through the legislative and judicial process. Furthermore, he calls for the follow-up by the Government of Cambodia on the recommendations made by various treaty bodies. He also recommends that the Government make further efforts to fulfil its reporting obligations, particularly regarding the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment, the Covenant on Elimination of All Forms of Discrimination against Women, and the International Convenant on Economic, Social and Cultural Rights.

Poverty reduction and economic and social rights

100. The Special Representative notes the willingness of the Government to reduce its military budget. He recommends that the resources presently devoted to the military be reallocated to areas such as education, health and social services. Moreover, the Special Representative advocates strongly the narrowing of the gap between rich and poor through a fairer distribution of the country's limited resources.

Labour rights

101. The Special Representative calls for respect for labour rights, in particular, the rights of workers to freedom of movement, expression and association. The rights of workers to the full minimum monthly wage and their right to refuse overtime work without suffering negative consequences should be safeguarded. Due attention should be paid to the concerns and rights of migrant workers employed in Cambodia.

Situation of women and children

102. The Special Representative calls on the Government to eradicate violence against, and exploitation of, women and to provide them with better access to education, health services, economic empowerment and public office. In particular, firm action should be taken against domestic violence. The law should protect the rights of women.

103. The Special Representative calls on the Government to take firm action against the exploitation of children in its various forms such as trafficking, prostitution and child labour. He calls for improved conditions of detention for juveniles and for respect of the legal limit on pre-trial detention periods for juvenile detainees. The Special Representative urges the Government to follow-up on recommendations made by the Committee on the Rights of the Child, in particular with regard to the establishment of a juvenile justice system in accordance with international human rights norms.

104. The Special Representative recommends to the Government that all current draft legislation, in particular the civil and criminal codes as well as the civil and criminal procedure codes, be in accordance with the international human rights standards and that concerned ministries and NGOs working on children's issues be consulted. The Special Representative recommends that, with the assistance of the international donor community, birth registration should be legally and effectively free of charge and actively promoted by the State. The Special Representative recommends that the Government and National Assembly pass the law on inter-country adoption drafted by the Ministry of Social Affairs, Labour, Vocational Training and Youth. He also recommends that Cambodia become a party to the Hague Convention on Cooperation in Respect of Protection of Children and Intercountry Adoption.

Rights of Minorities

105. The Special Representative calls for increased respect for, and promotion and protection of, the human rights of minorities, in particular the rights of Cambodians of Vietnamese origin and those of indigenous peoples. Concrete actions to address discrimination against minority groups should be taken by the Government.

Rights of human rights defenders

106. The Special Representative recognizes the important role of civil society in the development of Cambodia. He condemns all acts of intimidation and threats against human rights defenders and requests the Government to ensure the protection of human rights defenders.

Human rights education

107. The Special Representative recommends that education and training in human rights be promoted at all levels of Government and society and, in particular, for security forces.